Per G.S.SINGHVI, CJ

This is a petition for issuance of a writ in the nature of Mandamus directing Principal District Judge, Kurnool (respondent herein) to decide the representation made by the petitioner in 1998 for his retrospective promotion to the post of Telugu Typist.

The petitioner joined services as Copyist in the Court of Principal District Munsif, Nandyal, District Kurnool, on
19-02-1983. He was promoted as Typist on 24-08-1985. After 12 years and 4 months, he submitted representation to the respondent for his retrospective promotion to the post of Typist by claiming that one Sri N.Chandrasekhar Rao, who was junior to him in the lower cadre had been promoted as Telugu Typist on 01-03-1984 without considering his case. After waiting for almost eight years from the date of submission of representation, he filed this petition.

Learned counsel for the petitioner argued that even though there is a time gap of almost eight years between the making of first representation by his client and filing of the writ petition, the Court should ignore the delay and entertain the writ petition because the petitioner has been continuously representing his cause before the authorities.

We have considered the submission of the learned counsel, but have not felt impressed. Though, the prayer made in the petition is innocuous, it is loaded with far reaching implications and grave adverse consequences on the right of
Sri N.Chandrasekhar Rao, who as per the petitioner's own showing was promoted as Telugu Typist on 01-03-1984. The petitioner has neither averred nor any material has been placed on the record of the writ petition to show that more than one post of Telugu Typist was available as on 01-03-1984 and if his case has been considered, he would have been promoted along with
Sri N.Chandrashekar Rao. It is therefore reasonable to infer that if the petitioner's claim for promotion with retrospective effect is to be accepted, Sri N.Chandrasekhar Rao will have to be pushed down and his promotion will have to be post-dated with effect from 24-08-1985. That exercise cannot be undertaken by the respondent at this belated stage and in any case, a direction cannot be issued for retrospectively promoting the petitioner because

Sri N.Chandrasekhar Rao, who is likely to be adversely affected has not been impleaded as party respondent.

We are further of the view that the petitioner deserves to be non-suited on the ground of laches. Article 226, in terms does not contain any limitation on the exercise of the High Court's power to issue orders, directions or writs in the nature of mandamus, certiorari, prohibition, quo-warranto and habeas corpus, but in last almost 56 years, the superior Courts have evolved several rules of self-imposed restraint including the one that the High Court will not entertain belated petitions. To put it differently, the petitioner, who does not approach the Court expeditiously with reference to the cause of action is not entitled to be heard on the merits of his complaint. In **STATE OF MADHYA PRADESH v. BHAILAL BHAI**, a Constitution Bench of the Supreme Court dealt with the issue of delay in filing of the writ petition and laid down the following proposition:

> *"The provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. However, the maximum period fixed by the Legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the Court to hold that it is unreasonable."*

The same view was reiterated by another Constitution Bench in **TILOKCHAND MOTICHAND v. V.H.B.MUNSHI**. In that case, the Supreme Court held that even though no hard and fast rule can be laid down for adjudication of a belated petition, the Court will not entertain petition filed after long lapse of time without a plausible and tangible explanation. This view was approved by majority of the 9-Judge Bench in **MAFATLAL INDUSTRIES v. UNION OF INDIA**.

In relation to service matters, the Supreme Court in **P.S.SADASIVASWAMY v. STATE OF TAMILNADU** ruled that a petition in the matter of promotion, seniority etc., must be filed within six months or at the best within one year from the date of accrual of cause of action. Similar view was expressed in **ROSHANLAL v. INTERNATIONAL AIRPORT AUTHORITY OF INDIA**.

If the petitioner's case is examined in the backdrop of the propositions laid down in the aforementioned decisions, we have no hesitation to hold that he is guilty of laches and is not entitled to relief under Article 226 of the Constitution of India.

For the reasons stated above, the writ petition is dismissed.

G.S.SINGHVI, CJ

R.SUBHASH REDDY, J

19th DECEMBER, 2005.

Mvb/***kvni***

HON'BLE THE CHIEF JUSTICE SRI G.S.SINGHVI

AND

HON'BLE SRI JUSTICE R.SUBHASH REDDY

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Writ Petition No.26916 of 2005

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Between:

R (M). Venkata Swamy . . .Petitioner

And

The Principal District Judge, Kurnool . . .Respondent

:: ORDER ::

Counsel for the petitioner : Sri G.Dasaradha Rami Reddy

Counsel for the respondent : Sri C.V.Nagarjuna Reddy

December 19, 2005

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